

Appl. No. 10/635,249
Docket No. 8556C
Amdt. dated June 18, 2007
Reply to Office Action mailed on March 19, 2007
Customer No. 27752

REMARKS

Claim Status

Claims 12-14 and 16-20 are pending in the present application. No additional claims fee is believed to be due.

Independent claims 17 and 19 are amended herein. In particular, claims 17 and 19 are amended to recite a temperature change substance having a negative heat of solution. (emphasis added). Support for these amendments is found at page 8, lines 26-31 of the specification. As such, it is believed these changes do not involve any introduction of new matter. Consequently, entry of these changes is believed to be in order and is respectfully requested.

Allowable Subject Matter

Claims 12-14 and 16 are allowed.

Rejection Under 35 USC §102 Over Zajackowski

In the Office action, claims 17-20 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,236,428 to Zajackowski (hereinafter "Zajackowski"). A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. (See MPEP § 2131, citing Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987)). There is at least one aspect of the invention defined by independent claims 17 and 19 not taught or suggested by Zajackowski.

Zajackowski discloses an absorbent article having a primary absorbent member 12 and an auxiliary absorbent member 14, which includes a topsheet 44 positioned on top of an auxiliary absorbent means 42. (See Col. 2, ll. 59-61; Col. 4, ll. 52-56; and Fig. 1). The Office action characterizes the topsheet 44 and auxiliary absorbent means 42 of Zajackowski as the temperature change element recited in claims 17 and 19. However, the temperature change elements of claims 17 and 19 include, among other elements, a

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temperature change substance. As discussed above, claims 17 and 19 are amended herein to recite that the temperature change substance has a negative heat of solution. (emphasis added). It is respectfully submitted that Zajackowski does not teach or suggest a temperature change substance having a negative heat of solution as recited in claims 17 and 19. Accordingly, Zajackowski does not teach or suggest all the claim elements recited in claims 17 and 19.

Thus, for at least the reasons discussed above, it is believed that claims 17 and 19 are patentable under 35 U.S.C. § 102(b) over Zajackowski. Claims 18 and 20 depend from and include all the limitations of independent claims 17 and 19, respectively. As such, for at least the same reasons discussed above with reference to claims 17 and 19, claims 18 and 20 are patentable under 35 U.S.C. § 102(b) over Zajackowski.

Therefore, it is believed that claims 17-20 are in form for allowance and such indication is respectfully requested.

It is also noted that in support of the rejection of claims 17-20, the Office action interprets the "temperature change element" recited therein as a functional limitation. However, claims 17 and 19 recite structural elements of the "temperature change element." In particular, claim 17 recites that the temperature change element "includes a permeable layer having a body facing surface, a temperature change substance having a negative heat of solution disposed on the permeable layer, and an impermeable layer partially wrapped around the permeable layer such that longitudinal edges of the impermeable layer stop short of meeting, leaving a center portion of the body facing surface of the permeable layer exposed." In addition, claim 19 recites that each of the temperature change elements "includes a permeable layer having a body facing surface, an impermeable layer formed by the barrier leg cuff, and a temperature change substance having a negative heat of solution disposed on the permeable layer." As such, Applicants respectfully disagree with the Office action's interpretation of the term "temperature change element."

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Conclusion

In light of the above remarks, it is requested that the Examiner reconsider and withdraw the rejections of the claims under 35 U.S.C. § 102. Early and favorable action in this case is respectfully requested.

Respectfully submitted,

THE PROCTER & GAMBLE COMPANY

By



Charles R. Matson
Registration No. 52,006
(513) 634-0072

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